



## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 15, 73, 74**

**[MB Docket No. 15-146; GN Docket No. 12-268; FCC 15-78]**

### **Amendment of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band for Use by White Space Devices and Wireless Microphones**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission proposes to designate a second available vacant channel in the UHF television band for use by white space devices and wireless microphones in those areas where the duplex gap of the 600 MHz Band is subject to impairment by a television station.

**DATES:** Comments may be filed on or before September 30, 2015, and reply comments may be filed on or before October 30, 2015. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act (PRA) of 1995, Pub. L. 104-13, should be submitted on or before October 30, 2015.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 15-146, GN Docket No. 12-268 and/or FCC 15-78, by any of the following methods:

- Federal eRulemaking Portal:// <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Federal Communications Commission's Web Site: <http://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- Mail: Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed collection requirements contained herein should be submitted to the Federal Communications Commission via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) and also to Nicholas A. Fraser, Office of Management and Budget, via email to [Nicholas A. Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or via fax at 202-395-5167.

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, [Shaun.Maher@fcc.gov](mailto:Shaun.Maher@fcc.gov) of the Media Bureau, Video Division, (202) 418-2324, and Paul Murray, [Paul.Murray@fcc.gov](mailto:Paul.Murray@fcc.gov) of the Office of Engineering and Technology, (202) 418-0688. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418-2918, or via email at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document, FCC 15-78, released August 11, 2015 in GN Docket 12-268 and MB Docket No. 15-146. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12<sup>th</sup> Street SW, Room CY-A257, Portals II, Washington, DC 20554. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-

A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

### **Paperwork Reduction Act of 1995 Analysis**

The Public Notice contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

## Synopsis

To mitigate the potential impact on white space devices and wireless microphones in areas where the duplex gap is subject to impairment, we tentatively conclude that we will designate a second available television channel in the remaining television band in such areas for shared use by white space devices and wireless microphones, in addition to the one such channel we have tentatively concluded will be made available in each area of the United States for shared use by these devices and microphones. Consistent with the Vacant Channel Notice of Proposed Rulemaking (NPRM), licensed as well as unlicensed wireless microphones would have access to the second available television channel. Recognizing the significant public benefits provided by white space devices and wireless microphones, the Commission in the Incentive Auction Report and Order stated that it was making the duplex gap available for use by these services, subject to appropriate technical rules. The Commission specifically noted that it was deferring a decision on whether to place television stations in the duplex gap. In the Vacant Channel NPRM, we tentatively concluded that preserving a vacant channel in the remaining television band in each area of the United States for shared use by these devices and microphones will help to ensure that the public continues to have access to the benefits they provide across the nation. White space devices and wireless microphone advocates maintain that lack of access to the duplex gap in areas where it is subject to impairment will limit the public's access to the benefits these services provide. We propose to address this concern by requiring demonstration of the availability of a second television channel in accordance with the procedures proposed in the Vacant Channel NPRM in geographic areas where the duplex gap is subject to impairment. More specifically, under this proposal such a demonstration would be required in geographic areas where the protected contour of a television station assigned to the 600 MHz Band impairs

the duplex gap. We propose that applicants for new, displaced, or modified television station or Broadcast Auxiliary Station facilities use existing tools to determine whether the proposed facility overlaps with a geographic area where the duplex gap is impaired, and then use the white space databases to determine vacant channel availability in the overlap areas. We invite interested parties to comment on this tentative conclusion in MB Docket No. 15-146. We direct the Media Bureau to establish new comment and reply deadlines of September 30 and October 30, 2015, respectively, for the proposals in the Vacant Channel NPRM as well as the proposals above. We intend to address all of the proposals in the same order.

### **Supplemental Initial Regulatory Flexibility Analysis**

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments indicated in the DATES section. The Commission will send a copy of this Public Notice, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>1</sup> In addition, this Public Notice and Supplemental IRFA (or summaries thereof) will be published in the Federal Register.<sup>2</sup>

In the Vacant Channel NPRM, the Commission tentatively concluded that preserving a vacant channel in the remaining television band in each area of the United States for shared use by white space devices and wireless microphones will help to ensure that the public continues to have access to the benefits they provide across the nation. As required by section 603 of the

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<sup>1</sup> See 5 U.S.C. 603(a).

<sup>2</sup> *Id.*

Regulatory Flexibility Act, 5 U.S.C. 603, the Commission included as Appendix B of the Vacant Channel NPRM an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals suggested in the Vacant Channel NPRM. In this document, the Commission decides that a limited number of broadcast television stations may be reassigned during the incentive auction and repacking process to channels within the “duplex gap” established as part of the 600 MHz Band Plan. The Commission notes that white space devices and wireless microphone advocates maintain that lack of access to the duplex gap in areas where it is subject to impairment will limit the public’s access to the benefits these services provide. To address this concern, the Commission tentatively concludes that it will preserve a second available television channel in the remaining television band in such areas for shared use by white space devices and wireless microphones, in addition to the one such channel it has tentatively concluded will be made available in each area of the United States for shared use by these devices in the Vacant Channels NPRM. Under this proposal, demonstration of the availability of a second television channel would be required in accordance with the procedures proposed in the Vacant Channel NPRM in geographic areas where the duplex gap is subject to impairment.

We hereby incorporate by reference the IRFA from the Vacant Channel NPRM. This Supplemental IRFA supplements paragraphs 4 and 19 of the IRFA as follows to reflect the second vacant channel preservation proposal. Consistent with the vacant channel proposal in the Vacant Channel NPRM, we believe the second vacant channel proposal in paragraph 32 of this document will not significantly burden small entities in terms of either the continued availability of channels in all areas or the administrative burdens of compliance. After the final channel assignments are made following the incentive auction, multiple vacant channels will exist in

most areas as a result of the co- and adjacent channel separation requirements necessary to protect primary broadcast stations from interference from each other. While the effect of the second vacant channel preservation proposal would be to reduce by two the total number of vacant channels that would otherwise be available in an area, it applies only in those areas where the duplex gap is subject to impairment. Our analysis indicates the duplex gap will not be subject to any impairment in most markets even if the optimization procedure tool is not restricted in assigning impairing stations. Thus, the duplex gap will remain free from impairment across most of the country, except in a relatively small number of markets. Consequently, the impact on small entities, in terms of the availability of channels for future use, will be limited. Consistent with the IRFA, although small entities may experience an increased burden, the Commission believes that adoption of the second vacant channel preservation requirement will greatly benefit white space and wireless microphone users as well as the manufacturer of white space and wireless microphone equipment that are also small businesses by creating new uses and opportunity for this spectrum. The Commission also believes that this prioritization and protection of white space is critical if it is to realize the benefits that this spectrum will provide to small businesses and developers that will usher forth new and unthought-of uses.



This Supplemental IRFA also supplements paragraph 17 of the IRFA discussing procedures to reflect that a broadcast applicant would determine if its contour overlaps the service contour of a television station assigned to a channel within the duplex gap.

FEDERAL COMMUNICATIONS COMMISSION

**Marlene H. Dortch,**

*Secretary.*

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